HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 20646 OF 2006

Between:

Choppadandi Srinivas

..... Petitioner

AND

Sircilla Municipality,
Rep. by its Commissioner,
Sircilla, Karimnagar District & others.

.....Respondents

:: O R D E R ::

Counsel for the petitioner : Shri M.V. Rama Rao

Counsel for respondent No.1 : Shri Polisetti Radha Krishna

Dated: 17.01.2007

Per G.S.SINGHVI, CJ

In this petition filed under Article 226 of the Constitution of India, the petitioner has prayed for issue of a direction to Sircilla Municipality (respondent No.1) to remove the illegal constructions raised by respondent Nos. 2 and 3.

Although notice of the writ petition has been duly served on all the respondents and Shri K. Anantha Rao, Advocate whose name is printed in the cause list has filed Vakalat on behalf of respondent Nos. 2 and 3, neither any counter has been filed on their behalf nor their Advocate has appeared to oppose the prayer made in the writ petition.

In paragraph 5 of his affidavit, the petitioner has given the details of the notices issued by the competent authority of respondent No.1 under Section 228 (2) and (3) of the Andhra Pradesh Municipalities Act, 1965 (for short, 'the Act') and has averred that even after service of notices, action has not been taken by the concerned authority to remove the illegal constructions raised by respondent Nos.2 and 3.

The aforementioned assertion of the petitioner finds corroboration from the averments contained in paragraphs 3 to 6 of affidavit dated 3.1.2007 filed by Shri B.Prakash, Commissioner, Sircilla Municipality. According to Shri B.Prakash, action has already been initiated for demolition of the illegal construction raised by respondent Nos.2 and 3, but the same had to be stopped because of the order of status quo passed by Junior Civil Judge, Sircilla in I.A.No.415 of 2006 (O.S.No.139 of 2006) filed by respondent No.2-Yeligeti Satyam.

Learned counsel for the petitioner submitted that ad-interim

injunction granted by the learned Junior Civil Judge, Sircilla in the case filed by respondent No.2 was operative till 26.12.2006 and as on today, there is no injunction against the demolition of the illegal construction, but the concerned authorities of respondent No. 1 have not taken action in that direction. He further submitted that even if the order of injunction passed in favour of respondent No.2 is operative, there is no impediment in removing the construction raised by respondent No.3.

Shri P. Radha Krishna, learned Standing Counsel for respondent No.1 gave out that interim order dated 12.12.2006 passed by the learned Junior Civil Judge, Sircilla in the case instituted by respondent No.2 is still operative and the next date of hearing was fixed as 24.01.2007.

In view of the averments contained in the affidavits of the petitioner and respondent No.1 and the statements made by their Advocates, the writ petition is disposed of with the following directions.

(1) Respondent No.1 and its functionaries shall take all steps necessary for giving effect to the notices issued to respondent No.3 under Section 228 (2) and 228 (3) of the Act. The needful be done within a period of one month from today.

(2) If it is found that the order of injunction passed by Junior Civil Judge, Sircilla in I.A.No.415 of 2006 in O.S.No.139 of 2006 was operative only till 26.12.2006, then similar action shall be taken qua the constructions made by respondent No.2.

(3) If the order of injunction passed in the suit filed by respondent No.2 is still subsisting, Junior Civil Judge, Siricilla shall finally decide I.A.No.415 of 2006 on

24.01.2007 or within a week thereafter. In case the injunction is confirmed, then parties shall be free to avail appropriate legal remedy. If, on the other hand, the injunction is vacated, then respondent No.1 and its functionaries shall take action for demolition of the illegal constructions raised by respondent No.2 within a period of next one month.

As a sequel to disposal of the writ petition, W.P.M.P.No.26172 of 2006 filed by the petitioner for interim relief is disposed of as infructuous.

A copy of this order be sent to Junior Civil Judge, Sircilla through District Judge, Karimnagar so that he may take action in accordance with the directions of this Court.

G.S.SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

17.01.2007
ksld